

MEMORIAL

Of The ATTORNEY GENERAL AND SOLICITOR GENERAL,
for *Ireland*; and the COUNSEL to the Boards of Customs
and Excise; presented to The LORD LIEUTENANT of
Ireland; upon the Subject of Two Reports from The
Commissioners of Enquiry.

(Presented the 27th May 1811.)

*Ordered, by The House of Commons, to be printed,
20 February 1812.*

TO HIS GRACE CHARLES DUKE OF RICHMOND,
Lord Lieutenant General, and General Governor of Ireland,
&c. &c. &c.

The humble MEMORIAL of The Attorney
General, Solicitor General, and Counsel to The
Boards of Customs and Excise,

Sheweth,

THAT Your Memorialists having seen, in two printed Reports of the Commissioners of Enquiry, laid before Your Grace, and before Parliament, several unjust charges and misrepresentations, relative to the Revenue Law Expenditure in *Ireland*; which reflect injuriously upon the manner in which the Law Business of the Revenue has been conducted;

YOUR Memorialists therefore pray, That Your Grace may be pleased to take into Your consideration, the following Observations upon such parts of those Reports, as relate to the Revenue Law Expenditure: And, that Your Grace may adopt such Measures thereupon, as to Your Grace shall seem proper:

And Your Memorialists will pray.

Wm Saurin.

Charles Burke.

C. M. Oursely

H. D. Grady.

THE COMMISSIONERS of ENQUIRY having, in that part of their Eighth Report, which relates to the Law Expenditure of the Revenue of Ireland, made unfounded Statements, and drawn unwarranted Conclusions; the Attorney and Solicitor General, and the two Counsel to the Revenue Boards, with whose offices that expenditure is connected, feel themselves called upon to submit the following OBSERVATIONS:—

THE Commissioners state, that there has been, in that Expenditure, a rapid and considerable increase since 1804; and they attribute this “profuse expenditure,” as they call it, to an erroneous and defective system. It will appear, in the sequel of those Observations, that, in point of fact, they are misinformed, and have misled the Public, inasmuch as there has been no increase in the Law Expenditure since 1804.

The Commissioners state the Law Expenditure to be profuse; whether it be profuse or not, must depend on the quantum and necessity of law business actually done in the Revenue, and on the rate of payment for that business. If the quantum of business necessary to be done, be moderately paid for, in that case the expenditure, however large, is necessary, not profuse.

The Commissioners begin by drawing the conclusion, though uninformed as to the premises from which such a conclusion could be drawn; they neither know nor enquire into the quantum of the law business of the Revenue, still less into the rates at which it is paid for, but come at once to the conclusion,—that it is profuse.

It is confidently asserted, on behalf of the Solicitors to the Revenue Boards, of their Counsel, and of the Attorney and Solicitor General, all of whom know the act on which they make the assertion, and are responsible for the truth of it, (and no doubt is entertained that the Commissioners of the Revenue Boards must concur in it,) that the law business of the Revenue is not greater than is indispensably necessary for the public interest; and that it is transacted at a less expense, and on much cheaper and more economical terms, than that of any subject of the Crown, who happens to be involved in law; and enough will appear in the sequel of these Observations, and in the details contained in them, to prove the truth of this assertion.

The Commissioners proceed immediately to another conclusion, “that the system of the Law Expenditure of the Revenue is erroneous and defective.” They state, that two Counsel are employed in all cases, and on all trials, and have briefs and fees sent to them, although they may happen to be absent from Dublin on Revenue business; in fact, three Counsel are so employed, the Attorney General being one. If this be the error or defect in the system which the Commissioners have discovered, they form their opinions of the legal advice of Counsel, on cases referred to them, and on the conduct and management of suits at law, upon partial and contracted views of the subject. Did they know the various duties of the Board’s Counsel, attending the Boards, attending trials at the Custom House, at the Four Courts, at the Commission, at the Quarter Sessions, in the Appeals, on consultations with the Crown Lawyers, independently of the duty of going on Revenue business to the different parts of Ireland, they would not have advanced such an opinion. In the ordinary affairs of the subject, a well-judging man will take the opinion of two, frequently of many Counsel, before he embarks his property in the risque and expenses of law. From the multiplicity and the complication of our laws, the most able and experienced Counsel are liable to mistake, and it is as well prudent, as economical, in the early stage of law business, to take the surest means of being right. In Revenue cases, the Attorney General, and the Board’s Counsel, generally give separate opinions: if those opinions differ, that difference produces conference, and conference leads to the right decision. The fees paid with those cases, so far as can be discovered, have not been increased since the reign of Charles the II. and are at a lower rate than would be paid by any Solicitor in the case of a subject. If, by such a system, one mistake can be prevented, one ill-advised suit be avoided, in the course of the year, it is obvious, that not only the credit, but the economy of the Revenue are materially increased. It cannot be advisable that, on trials in which the Crown has to contend

with the illicit trader, and the smuggler, the Crown should not have as much legal assistance as its adversaries find it their interest to procure; every one acquainted with the nature and history of legal proceedings, knows that no prudent person entrusts the care and conduct of a trial at law, in which valuable property is involved, to a single Counsel. If the Commissioners had enquired, they would have found, that it scarcely ever happens, in contests in which the Crown is involved for the recovery or the protection of the Revenue, that the adversary has not as numerous a bar, and more highly fed, than the Crown; which cannot be attributed to error, or defect of prudence, on the part of the subject; but the Board's Counsel, it is said, receive fees for business transacted in their absence from Dublin. This business consists either of cases for opinions, or briefs for trials: such cases and briefs are frequently given out previous to their departure from Dublin, which is generally sudden and unforeseen, and it often happens, that the final opinion is not given upon the case, or the trial disposed of, until after their return, the moment of which is always uncertain; it also frequently happens that, during their absence, cases are sent to them for opinions, which they give, and transmit from the country, and that others are reserved for conference and opinion on their return. It would have been very important for the Commissioners to have enquired, and ascertained, what, in the course of a year, is the number of such absences from Dublin, and what might be the probable amount of fees on cases, or for trials, during the absence of a Counsel to the Revenue; on which cases he did not give an opinion, or on which trials he was unavoidably disabled from attending; if they had, they would have found, as will appear from the subsequent details, that the sum was trifling and inconsiderable, and that it is unjustifiable to hold it up as an instance of provision.

Again, the system is arraigned as erroneous and defective in the mode by which Revenue cases are referred for the opinion of Counsel. When the Boards find any difficulty appearing to involve a legal question, they refer for advice to their Solicitors, men who are selected with much circumspection, and eminent in their profession; on such references, where the Solicitor himself feels it necessary, he consults Counsel, or recommends that Counsel should be consulted, and not until then is any case referred to Counsel; it is not easy to conceive by what other course it can be ascertained whether a question be fit to be referred to Counsel. That such a discretion in the Boards, and their Solicitors, may be abused, cannot be denied, but whether it has or not, might have been discovered from the instances in which they have exercised it; and into the number and nature of which, it is to be wished that the Commissioners had thought proper to enquire.

The Commissioners of Enquiry state it to be the practice to employ some of the Crown Lawyers in the superior Courts of Law and Equity, and in the Court of Appeals. It seems extraordinary that they should treat it as being a Custom-house practice to employ the King's Attorney and Solicitor General in cases in which the Crown's Rights and Revenues are concerned; had they enquired, they would have learned, that from the earliest periods of the law, there never was a suit in the superior Courts of Law, Equity, or Revenue, where the Rights or Revenues of the King were involved in the remotest degree, in which those his sworn Counsel were not employed; they would have learned that in many of those suits the Attorney General alone must be the Plaintiff, that in all Revenue Causes the commission of that Officer will bind the rights of the Crown, and that in all matters of Revenue he is, by the law and the constitution of the Country, the peculiar Counsel of His Majesty. It is trusted, that the wisdom and the antiquity of this part of our legal system, will sufficiently justify it against the imputation of "error and defect."

Again, the Commissioners arraign the act and the order of Government made in the year 1803, when the present Chief Baron of the Exchequer was appointed to the office of Attorney General, by which the Commissioners of the Revenue were directed to put the Attorney General on the same footing (with respect to cases, Informations and Revenue trials) with the Board's Counsel: If the Commissioners had enquired into the reasons on which that act of the Government was founded, and the circumstances under which it was adopted, they would have found it to be a measure very maturely considered, not only by the Government of Ireland, but by the then Minister of England; they would have further found, that it was a measure on which Lord Redesdale (then Chancellor of Ireland, and who had filled the office of Attorney General in England) bestowed particular attention, a person eminently qualified to form a just opinion on such a subject; they would have found that on the Revenue cases the Attorney General actually gives opinions in like manner as the

Board's

Board's Counsel; that the Revenue trials in Dublin, on which he receives fees, although his attendance on them is not called for, unless in cases of particular emergency, do not, in both departments of Customs and Excise, amount to 50 in the year (on an average of the three years ending 5th January 1808); that those trials are had under the responsibility of his office, and that with relation to them, he is at all times open to be resorted to and consulted. It cannot be doubted, if the Commissioners of Enquiry had informed themselves on this subject, they would have refrained from the observation, "that other motives, than those of promoting the interests of the Revenue, induced an arrangement apparently so unnecessary, highly objectionable, and affording a pernicious example of profusion in the Law expenditure."

Such are the general Observations which occur upon some of the principal features of the Eighth Report: But it is necessary to examine it more in detail, and no doubt whatsoever is entertained that the assertion made by the Commissioners of Enquiry, "That the system of Law Revenue expenses is erroneous, defective and profuse," will be found to have been an inconsiderate judgment upon matters imperfectly investigated, and in consequence very much misrepresented.

The charge against that system is divided into two parts: The first relates to the professional duties discharged by the professional Servants of the Boards, and by the Law Officers; the second, to the preparation of Revenue Bills with their assistance.

The Report alleges as a defect in the system, that the Solicitors have it in their power to employ Counsel unnecessarily upon the trials of Informations, and that they have an interest in so doing, by reason of their fees upon drawing Revenue bills; and passages in the Report are calculated to induce a suspicion that the Counsel so employed connive at those abuses. The Commissioners of Enquiry have ventured to insinuate this, in perfect ignorance of the subject, and without having recourse to the sources of information within their power. Had they enquired into the facts, they would have found that in the year ending 5th January 1806, 395 Excise Informations were tried in the district of Dublin, in eleven of which only, Counsel were employed; that in the year ending 5th January 1807, 256 were tried, in 17 of which only, Counsel were employed; and that in the year ending the 5th January 1808, 410 were tried, in 44 of which only, Counsel were employed.

Year ending 5th January	Trials in the Excise Department in Dublin	Attended by Counsel
1806	395	11
1807	256	17
1808	410	44
	1,061	72

So that in 1,061 Causes occurring in the three years which the Commissioners of Enquiry have selected as periods of increasing and profuse expenditure, there are but 72 instances in which the Solicitor for the Excise has consulted what is stated in the Report to be "his interest at variance with his duty." From the character and experience of that Officer, it is not unreasonable to presume that he has exercised a sound discretion on those occasions, until the contrary shall be shown, by such an enquiry into the merits of each particular case, as it has not been hitherto thought necessary by the Commissioners of Enquiry to institute.

In the Custom department, in which Counsel are (from reasons which will hereafter appear) more frequently employed in proportion to the Informations filed, the number of trials in Dublin, in which Counsel have been employed, has been

In the year ending 5th January	1806	-	-	-	33-
"	"	"	"	"	32-
"	"	"	"	"	15-

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Had the Commissioners enquired into the matter, they would have found that, so far are the Solicitors of the Revenue from deserving this imputation, that before every trial, a notice is served on the Claimant or Defendant, requiring to know whether he intends to employ Counsel; that unless he does so, the Solicitor does not (except in some very peculiar case); and that in many instances in which the Claimant or Defendant does, the Solicitor for the Revenue does not, but attends and conducts the trial without the aid of Counsel.

The trials of Excise and Custom Informations in the Country, unless in cases represented by the Collector or prosecuting Officer to be of consequence and difficulty, are not attended either by Solicitor or Counsel, and the proportions appear to be as follow,

	In Year ending 31 January	Informations tried in the Country Districts.	Instances in which Board's Counsel attended.	Number of Informations tried at such Attendance.
Excise.	1806	2,195	3	18
	1807	1,837	9	30
	1808	2,275	6	43
		6,507	11	96

	In Year ending 31 January	Informations tried in the Country Districts.	Instances in which Board's Counsel attended.	Number of Informations tried at such Attendance.
Customs.	1806	194	3	10
	1807	183	4	7
	1808	138	0	0
		505	7	17

The Report represents, as a further instance of error or defect in the system, that the Solicitors may, from the same unworthy motives, "increase the number of Informations, and multiply references to Counsel upon proceedings connected with them." The number of Revenue prosecutions depends upon the intelligence and activity of the Revenue Officers, and the number of Informations perused by Counsel, upon the Solicitor's opinion of the necessity of employing Counsel for that purpose. The practice is as follows: Whenever a case occurs on an Act of Parliament creating a new offence, or giving a new penalty or forfeiture, the Solicitor for the Excise prepares the form of an Information, which is settled by Counsel, and this form serves afterwards for a precedent. In cases for recovery of duties, and some others likely to occur often, copies are printed and transmitted to the several Collectors, and after the precedent has been once framed, the course is not to submit to Counsel for perusal a like Information for the same offence.

The following Tables will illustrate this Statement; but it is here necessary to observe, that for any Information prepared by the Solicitors, either by themselves or with the assistance of Counsel, the Solicitors receive no fee or emolument whatsoever for drawing

drawing or copying the same, or attending Counsel therewith, so that they have no imaginable interest in "multiplying the number of them."

EXCISE CASES IN IRELAND.		
Year ending 31 st January	Information filed	Information laid before Counsel.
1806	3,550	40
1807	3,050	73
1808	2,083	69
	7,683	182

CUSTOMS CASES IN IRELAND.		
Year ending 31 st January	Information filed.	Information laid before Counsel.
1806	217	71
1807	315	56
1808	253	47
	625	174

The charge above alluded to is also pointed at the reference of cases for the opinion of Counsel, by the Solicitors of the respective Boards, and this part of the charge is divided into two distinct accusations:

First,—“That the Boards unnecessarily consult their Solicitors upon occasions
 “which require less of a legal understanding than of a just view of expediency, and the exercise of a sound discretion in the Boards; that
 “upon many of those questions, the Solicitors themselves ought to be
 “competent to answer, without consulting Counsel; and that the same
 “point,” as they have observed, “is repeatedly submitted to Counsel.”

And Secondly,—“That the number of those cases which are referred to Counsel,
 “is permitted to depend upon the decision of those whose
 “interest it is to increase them.”

Upon the first, so far as relates to the Boards, it is only necessary to observe that it is not an objection to the Law Expenditure of the Revenue; it is an impeachment of the conduct or competence of the persons who compose the Revenue Boards: the Commissioners of Enquiry never called for or saw the cases upon which they have pronounced that the Boards themselves could have formed opinions, and if they had seen them, it cannot be conceived that they could form an estimate of their difficulty. It is confidently asked, upon what pretences does the Board of Enquiry found its claim to appreciate the difficulty of a question of Revenue Law, more justly than the Commissioners of Customs and Excise. As far as relates to the Solicitors, the Commissioners of Enquiry never called for the cases on which they allege that the Solicitors might have themselves given opinions; and it is still more confidently asked, how are they qualified to pronounce upon that exact quantity of nicety in a case (even if they had read it), which renders the Solicitor equal to give an opinion upon it without the assistance of Counsel. As to the charge that the same point has been repeatedly submitted to Counsel, it is unfounded in point of fact, and it is indeed unaccountable how the Commissioners have felt themselves justified in stating it as a fact within their observation.

As to the second (which not only condemns the practice, but assigns a corrupt motive for its continuance) it is best refuted by briefly stating the manner in which the Boards of Customs and Excise have recourse to legal advice, and enumerating the instances in which they have consulted their Solicitor and their Counsel respectively. Whenever a difficulty occurs to either Board which seems to them to require the consideration of a professional man, they refer it to their Solicitor for his advice; to such reference the Solicitor is no party, and can know nothing of it until after it is made; upon this reference he either gives an opinion, or reports that he considers the case too difficult for him, and advises that Counsel should be consulted: This is accordingly done, and in some instances the Board, after getting his opinion, call for that of their Counsel, and in both cases the two Counsel to the Commissioners and the Attorney General give opinions; if they differ from each other, and cannot upon
 conference

conference agree, they desire that the Solicitor General be called in. That such references are not wantonly or corruptly made, the following Tables will demonstrate.

Excise.	In the year ending 9th January	Opinions by the Solicitor upon Cases referred by the Revenue Board.	Cases referred to the Attorney General and Board's Counsel.	Cases referred to the Solicitor General.
	1806	1,451	119	15
	1807	1,952	159	10
	1808	1,637	141	7
		5,040	419	32

Customs.	In the Year ending 9th January	Opinions by the Solicitor upon Cases referred by the Customs Board.	Cases referred to the Attorney General and Board's Counsel.	Cases referred to the Solicitor General.
	1806	500	130	30
	1807	466	106	10
	1808	511	133	16
		1,477	369	56

Had the Commissioners of Enquiry informed themselves, it is presumed that they would not have asserted that "such expense might be saved by the Board's interposing to prevent unnecessary references to Counsel;" and that they would have spared the unbounded and injurious aspersions upon the Solicitors of the Boards—men of acknowledged probity and eminence—"that such interposition was necessary to take away the temptation that might be offered by motives of interest "to multiply those references."

It must be observed, from all the preceding details, that the aid of Counsel is, in proportion, much oftener resorted to in the Customs than in the Excise cases; this is occasioned by the greater importance of the cases themselves, which so frequently involve the right to the seizure of valuable ships and merchandise.

In these details, no notice is taken of any opinions given by the Solicitors, upon matters referred to them by the Boards of Revenue, except such as have been given in writing, and are preserved; and a great number of cases are omitted, in which the Solicitors have given written opinions, which have not been preserved; and many more, in which, when sent for by the Boards, they have, in oral communication, answered the questions referred to them. It is also necessary to state, that for the reports which they make; the opinions which they give; the trials and appeals which they attend; and the informations which they file; and for their attendances upon Counsel; they charge no fee whatsoever, and are in no manner remunerated, except by their salaries, which being but £. 250 to each, are not much more than half sufficient to pay the clerks whom it is necessary for them to employ, and for whom they have no allowance whatever.

It is but justice to the individual alluded to, to conclude the Observations upon this part of the Report by noticing the insinuation directed against the Solicitor in the Excise Department, for not furnishing, since his appointment in 1802, the bills of costs for the business done by him in the Courts of Law and Equity. This charge amounts

amounts to nothing more than that he did not call for money that was due to him, but postponed his own private interests to the incessant discharge of his arduous and complicated duties. The accusation implied in it, however, will avail but little, when it is known that the costs in the Common Law Courts have been taxed by the proper officers of the respective courts, and that those costs, for the seven years he has been in office, amount to £. 2,444. 12s. 1d.; and when it is observed that it appears, by the Appendixes to the 8th Report, that he had to the last farthing accounted for all moneys which he had received.

The taxation of the bills of costs of the local agents, the Commissioners of the Revenue have judiciously, and on a principle of economy, entrusted to their own Solicitors, they making no charge for such taxation. The Commissioners of Enquiry have called in question the propriety of this practice; but in truth, these taxations have been made with a strictness and severity much complained of by the local agents, who well know, that if submitted to the officers of the Law Courts, their demands against the Boards would be in a very considerable degree increased. The reason urged by the Commissioners of Enquiry for objecting to the taxation of the local agents costs by the Solicitors to the Boards,—“that it cannot be expected that they should be indifferent in deciding on the correctness of the several charges made by other agents, when no inconsiderable portion of their own emoluments may be derived from similar sources,”—is unfounded, inasmuch as all the business common to both, is of that nature for which the Solicitors of the Boards are either not entitled to any costs, or are paid by a fixed allowance; or consists of the mere attendance upon trials at *Nisi Prius* and criminal prosecutions, forming the most trifling source of the emoluments of the Revenue Solicitors.

A part of this Report refers to the preparation of bills relating to the granting and collecting of the King's revenue; which, besides the economical arrangement suggested, questions the prudence of an ancient usage: the reform suggested by the Commissioners of Enquiry being, “that for the future some of those bills should be perused only by the Counsel to the respective Revenue Boards, and that others should be prepared in England.” It is necessary to state the former practice, and the reason upon which it was founded. As far as the Revenue bills are purely of a financial character, relating to the ways and means of raising a revenue, professional men cannot presume to interfere; but as those measures, when reduced into statutes, become the law of the land, to be interpreted in courts of justice; and as the Revenue system is necessarily engaged in a perpetual conflict with those whose interest it is to elude it, it is necessary that the greatest possible care should be taken in framing those provisions, upon the sufficiency of which so much depends.

Those who are acquainted with the difficulty of framing a Conveyance or a Statute, so as to comprehend, in legal and intelligible language, the whole intention of the framer, without leaving the construction subject to doubt or evasion; and those who have experienced the constant exertion of ingenuity exercised by the illicit trader, in defeating or eluding the Revenue laws, can alone be competent to judge of the prudence of engaging professional assistance in framing those laws. It has, for those reasons, from the earliest periods, been the practice in Ireland to employ, in the preparation of those bills, not only the Counsel to the Revenue Boards, but the King's law servants, as officers responsible to the Government, and as the persons supposed to be acquainted with the laws of the country, and officially engaged in the execution of them.

In the discharge of this duty, they have been always assisted by personal communication with the Commissioners of the Revenue, and have been attended by the practical officers; and have, from their local situation, enjoyed the advantage derived from a knowledge of the country and its habits; which Counsel in England, however eminent, cannot be supposed to possess.

This practice appears, by one of the documents referred to in the 8th Report, to have been regulated in the year 1791, as far as relates to the money bills, in point of expense, and until the Union it never was questioned or departed from. Before the Union, the practice was, for the Commissioners of the Revenue or the Chancellor of the Exchequer to instruct the Revenue Solicitors to prepare and lay before the Law Officers and Board's Counsel drafts of the bills intended to be introduced in the ensuing session: this was generally done previous to, or early in the session of Parliament; and the Counsel were attended by the practical Officers of the Revenue, to assist in the framing new and improving old provisions. In 1801

and 1802 (the two first years after the Union) this system was departed from, and the Chancellor of the Exchequer had the Revenue Acts prepared in London, with the assistance of one Solicitor and one Counsel for the Revenue, and many of the principal practical officers, who went from Ireland for the purpose, at a heavy expense, to the great neglect of their respective duties, and to the serious inconvenience of the Public. In 1803, though the same system was continued, some bills were prepared in Ireland by the Law Officers and Counsel to the Revenue, according to the former practice, and being bills, though numerous, merely to perpetuate, and in some trifling instances, to amend existing Acts; the expense and trouble of preparing them was inconsiderable. In 1804, some of the money bills were prepared in Ireland by the Law Officers and Boards Counsel, and several regulation bills were prepared in England, without being submitted to them. In 1805, as the 8th Report states, "it was determined, in consequence of inconvenience experienced from the preparation of bills in England, that they should in future be prepared under the advice of the Law Officers in Ireland, as before the Union;" and accordingly, in that year, several bills were laid before the Counsel for the Revenue Boards, and the Attorney and Solicitor General.

The practice, thus revived upon full consideration, was not departed from during the remainder of Lord Hardwicke's administration, and in the Christmas vacation of 1805, the Crown Lawyers and the Counsel to the Boards prepared as formerly the money and regulation bills for the ensuing session. In the succeeding administration of the Duke of Bedford, the practice was considered as so much settled, that upon the division of the Boards of Customs and Excise, a Letter was written by Mr. Elliot (the Secretary to the Lord Lieutenant) dated the 10th of March 1807, acting upon the former order of the 23d May 1791; and directing that the fees of Counsel on the money bills should in future be paid in moieties by each Board; instead of being paid, as formerly, by the Customs Board. This Letter appears, by N^o 74 in the Appendix to the 8th Report, to have been transmitted by the Commissioners of Excise to the Commissioners of Enquiry on the 16th January 1809, in consequence of their desire to know whether any order, subsequent to that of 1791, existed on the subject of the fees of the Crown Lawyers; and it is observable that they have not included this Letter in their Appendix, or alluded to it in their Report.

During the remainder of the Duke of Bedford's administration, the practice continued as before; but afterwards, in 1808 and 1809, the system was generally departed from by the Chancellor of the Exchequer; the bills of those years (with few exceptions) having been prepared in London.

So far as the 8th Report alludes to the expenses incurred in preparing the revenue bills* these consist of two distinct parts, the first is the fee of £. 700 paid to the Attorney and Solicitor General* and the first Counsel to the revenue upon the money bills. This fee was established in the administration of the Marquis of Buckingham, under the circumstances stated in the Letter of Mr. Secretary Hobart, in the Appendix to the 8th Report, and continued to be paid until the Union. It was restored to the offices under Lord Hardwicke, and recognized and acted upon as the Duke of Bedford's administration: it is paid whether there be but one money bill or many; and whether the trouble of preparing them be great or small, and in sessions in which there is no money bill, no fee can be claimed. The fees for the preparation of the regulation bills, which form the second part of those law expenses, are payable upon the principle of remuneration, and the amount of those fees is, at this day, no greater than it has been from the commencement of the practice.

In this practice the Commissioners of Enquiry have recommended a change, merely upon the principles of economy, without adverting to the advantages resulting to the Public from it, or suggesting that a different system could be more beneficial to the Country. It will not be imputed to the Law Servants of the Crown, that they could object to the saving of public money, where it can be accomplished consistently with more important objects. But it is submitted, that it should be first ascertained that the proposed saving will be ultimately economical, and that greater considerations will not be sacrificed to the reduction of a small expense.

* This fee was formerly paid to the Prize Secretary also, but his office was abolished in 1803, and is not now vacant, as stated by the Commissioners of Enquiry.

† Since the division of the Boards of Customs and Excise, but half of this fee has been paid by each of the departments for its own money bills, and if in either of them, there be no money bills, no fee is paid by that department; an arrangement of which the Commissioners of Enquiry could not have been ignorant.

The Report states that there has been a progressive and profuse encroachment of Law Expenditure in the revenue from 1803 to 1808, which the Commissioners of Enquiry attribute to "an erroneous and defective system, notwithstanding that an encroaching revenue and other causes may have operated," as they state, "to produce some portion of this encroachment." They illustrate this assertion by three tables; one in page 104, stating the Law expenses in those five years; another in page 107, stating the expenses of preparing revenue bills in that period; and a third, in page 110, stating the fees paid to Counsel for revenue business generally during the same. When these tables shall be analyzed, it will be found that the apparent encroachment is vaguely and fallaciously stated, and may be easily accounted for. There are three distinct principles of inaccuracy to be discovered in the mode of preparing these tables, which have led the Commissioners to a conclusion altogether false.

- First.—They have charged in some years, as the Law Expenditure of the revenue, disbursements which have no imaginable connection with it; and in others, have omitted to charge disbursements which belong to that expenditure.
- 2dly.—They have charged as ordinary expenses, gradually and rapidly increasing, the disbursements of particular years, occasioned by very peculiar occurrences, which ought to have been excluded from calculation.
- 3dly.—They take the disbursements and the Law expenses of the year to be the same thing, than which nothing can be more unfair; the expenses are paid for by warrants, which the Parties entitled to, call for, and receive according to their convenience or necessity: it is therefore plain that the expense incurred in one year may be paid for in another; which is almost always the case. And this distinction (immaterial if nothing but the total expense were the subject of investigation) ought not to have been overlooked by those who undertook to show what proportion the expenses of one year bore to those of another; and to report 'that there has been a rapid and considerable encroachment.'

Upon these mistaken principles they have framed, in page 104, a table of what they call the encroached Law expenses of five years. And they support this table by the Appendixes annexed to this Report.

Those Appendixes have been carefully analyzed; and the table has been corrected according to the expenditure, and not according to the disbursement of each year; and when corrected, the table in the 8th Report will appear as follows:

Of Year ending 25 January	LAW EXPENSES.		See Appendixes hereto annexed.
	As by the English Report.	As by correction of same.	
1804	14,036 7 0	13,024 9 9½	Appendix A.
1805	10,786 13 10	14,607 14 7	" - B.
1806	23,018 5 6	16,205 8 5½	" - C.
1807	26,069 9 11½	10,165 12 4½	" - D.
1808	27,714 17 11½	15,475 18 6½	" - E.

It is plain that the dissection of this table, in page 104 of the 8th Report, must affect with the same results the other two tables in pages 110 and 111; but that in page 110, has an error peculiar to itself: in the last year, it charges the fees paid to the Attorney and Solicitor General, for business done in the superior Courts, in proceedings *in quare impedit*; and in recovery of the estates forfeited in the Rebellion; fees paid by the Government, and not by the Revenue; and which have no more connexion with Revenue Law Expenditure than the costs of a criminal prosecution at the suit of the Crown. Appendixes are annexed hereto, by which those misrepresentations of the Commissioners of Enquiry are illustrated; upon which some Observations shall be now submitted.

As to the increase of expense occasioned by fees paid upon money bills; it depends upon the restoration of that practice already alluded to, which did not take place until after the first of those five years. And as to regulation bills; there can have been no increase of expense, except such as must have been occasioned by the increased number of those bills which the Chancellor of the Exchequer thought it prudent to introduce; and that the multiplication of them, which cannot be charged against the system complained of, will nevertheless in a great measure account for; for the increased expense appears from this circumstance—that in 1805, by a Letter from the Secretary of the Chancellor of the Exchequer to the Commissioners of Customs, and by an order from the Lords of the Treasury to the Commissioners of Excise, those Boards were directed to instruct their Counsel and Solicitors to prepare an entire new Code of Revenue Laws, by repealing all the existing statutes (the acts of Excise and Customs of Charles the 2d included) and enacting in separate acts, all the laws relating to each distinct object of Revenue: “so that,” as those orders expressed it, “each individual who is to pay the duty, or be bound by the regulations, may at once see the whole of the subject, and not be incumbered “with purchasing or reading more of the statutes than respects his particular “concern.” In consequence of this very comprehensive plan, the object of which was to new model the entire fabric of Revenue Law, the Counsel and Solicitors, attended by the practical officers, devoted several months to this most laborious and arduous undertaking, and framed 16 voluminous bills in the Excise, and one (containing 740 pages) in the Custom department, which were afterwards perused and commented upon by the Law Officers, and none of which were introduced into Parliament. There can be no doubt that to carry this scheme well into execution required much legal assistance. And it is also certain that those bills were prepared at very considerable expense: but it is equally plain that such additional charge in that year, is to be alone attributed to that particular circumstance. The preparation of those last-mentioned bills, in the year ending 5th January 1806, cost £8,411. 5s.: it is therefore not only inaccurate to represent a disbursement, occasioned by so peculiar a circumstance, as an instance of growing expenditure, or as a contrast to the preceding years; but fallacious to select that year as one of those upon an average of which such expenditure ought to be estimated. And the Commissioners of Enquiry are the less to be excused, for so superficially alluding to this; because the concluding sentence, in the printed Report, of the examination of the Solicitor of Excise directly called their attention to it, and should have induced them to investigate it. Had it been duly considered, it would be found to affect all the tables in the 8th Report, as to the law expenses of the year ending the 5th January 1806. It is also very observable, that though a striking contrast is exhibited in the Report, between the expense of preparing Revenue bills in that year, and the former; to which the word “nil” is annexed in table, page 107; and the preceding, in which £1,023. 15s. is stated to be the disbursement on that account: yet no enquiry has been made into what were the expenses of preparing the Revenue bills in those, and the former years in London; although it is stated in the Report, “that the expense of affording the “Chancellor of the Exchequer legal and financial assistance in London, must be considerable.” Had that expense been stated (which for the year 1803 alone amounted to more than £5,000.) and added to the law expenses of each of those years, it would have altered all the tables, destroyed the apparent contrast between the periods, refuted the allegation of an increasing expenditure, and would have brought the question between the two modes of preparing those bills, to what it ought to have been,—a consideration of the principle and policy of each.

Another source of casual and accidental increase, which ought not to have been vaguely imputed to the system, is to be discovered in the changes of Ministry, which took place in the years ending 5th January 1807 and 1808: The regulation bills, which had been prepared for the first of those years (while Mr. Foster was in office), at an expense of £1,251. 5s. were not introduced into Parliament; and other bills were laid by his successor (Mr. John Newport) before the Law Officers, and Counsel and Solicitors to the Revenue. In the following year, before the change of administration, new bills were prepared for that year; and on Mr. Foster's return to office in the same year (in which, by reason of a dissolution, there were two distinct sessions of Parliament) other bills were prepared; so that in each of those years there was necessarily a double expense incurred, merely by the changes of administration. For the same purpose, and to lead to the same conclusion, the fees paid by the Solicitor of King's Rents, for preparing the Nullum Tempus Bill,

Bill, a casual expense, not connected with the collection of the Revenue; and the fees paid by the Solicitor of Forfeited Estates, in the year ending 5th January 1808, are thrown into the column of that year, though the greater part of the latter were paid to the Crown Lawyers, and not to the Counsel to the Commissioners, for proceedings in *quære impedit* in the case of an advowson claimed against the Crown, and were paid by the Government, and not by the Revenue. In the first of the five years they have preposterously charged, as Revenue Law Expenditure, the sums paid to English agents for the Statutes at Large; the salaries of the Commissioners of Appeals; the salaries of the Sub-Commissioners; and the fees of the Chancellor of the Exchequer for sealing green-wax process.

In the year ending 5th January 1807, £1,261. 19s. 3½d. was paid to the personal representative of Richard Cooban Carr, formerly Solicitor of Excise, being a balance of costs due to him at his death, which happened on November 1802; and the Commissioners of Enquiry, without any comment, include it in a table, by which they would illustrate an encroaching and profuse expenditure since the year 1804.

A source of expenditure, peculiar to the year ending 5th January 1808, has been very slightly and imperfectly alluded to in the Eighth Report; and that is, that the new law for levying fines upon parishes where unlicensed stills are found, and prosecutions against persons using them, was, during that year, in operation all over Ireland; and from the nature of it (every case being a proceeding in a court of justice) necessarily induced a most considerable increase of law expenses. In that year the expenses, in endeavouring to execute that law, have amounted to more than £9,000, an expenditure obviously not imputable to any error or defect in the system complained of. This sum ought to have been deducted from the table, giving the increase of Law Expenditure in that year; and part of it, amounting to more than £1,100, ought also to have been deducted from the table, giving the increased fees of Counsel for that year, being the fees paid on that account to the Counsel to the Commissioners, who were sent upon the circuits. These fines never were intended but as a temporary experiment to suppress illicit distillation, and forms of course no part of a permanent system of Law Expenditure; besides, whenever these fines are levied, the costs in the successful cases are reimbursed to the Revenue; a considerable part, exceeding £6,000, has already been repaid; the reimbursement is in progress daily as the fines are recovered, and yet no notice whatsoever is taken of this circumstance by the Commissioners of Enquiry.

It must be observed, in answer to an insinuation in the Eighth Report, reflecting on the Excise Board, because these fines have not been levied, that the collection of them is not under the management of the Board, but rests with the County Treasurers and their Collectors; and should they be negligent, there can be no doubt that the prosecutors and the trustees of the County Infirmaries (to whom, and not to the Revenue, those fines belong) will not fail to have them levied, if possible; it is, however, probable that many of these fines neither can or will ever be levied; but whether or not, the expense of suing for them ought not to have been used as a proof of increasing Revenue Law Expenditure.

It will also be found that the Commissioners of Enquiry, by making out their table of the payments made to Counsel from the dates of the warrants for those payments, have annexed to some years fees for business done in preceding years; and exhibited to view an apparent increase, where there was not a real disproportion in the annual law expenses: they have represented the last Counsel to the Commissioners as having received, in the year ending 5th January 1807, £6,814. 9s. 9d. which, when compared with the receipts of the two former years, appears an extravagant increase. The fact is, that on the 20th of April 1806, Sir Charles Ormsby was removed from office, and in that year received above £4,000, the amount of fees due to him for business done in the preceding year, and in so much of 1806. This sum, together with all received by his successor (Mr. Burrowes) in that year, is charged as the fees of that office for the year 1806. In the same manner, the greater part of the fees stated to have been paid to the first Counsel to the Commissioners, in the year ending 5th January 1806, and to amount to £3,839. 4s. belong to the former year; in which, by the table, the office would appear to have been worth but £560. 15s. 9d. And payments of £991. 18s. appear to have been made to him for business of that former year, up to the 8th of January 1805; and though comprizing only three days of the year 1805, they would seem, by the table, to belong to that year. The fees to the Attorney General

also for the year ending 5th January 1807, appear, in the table, to amount to £4,476. 7s. 3d. by including in it the arrears paid in that year to the former Attorney General, amounting to £928. 18s. 6d. for business of the preceding year.

All the tables are calculated to represent the year 1804 (i.e. ending 5th January 1805), as a period of economy; and the word "nil" is annexed to it in the table, which states the expenses of preparing bills, as if to shew that no bills were perused by the Law Servants in that year, and to contrast with £11,783 in the following: but in the first of those years, the money bills were prepared in Ireland, and though the fees were not paid till the following year, they must be deducted from the £11,783, and will be found to amount to more than £3,000. A balance of account due in 1804 to the Solicitor of Excise, amounting to £363. 8s. 6½d. appears to have been paid in 1806, and is stated as part of the expenses of that year.

These Statements show the fallacious principle upon which the tables in the 8th Report are framed; and it is confidently asserted, that when the payments made in the several years are distributed upon the years in which the business was done, it will appear that there is no foundation for the allegation, "that there has been a rapid and considerable increase in the Revenue Law Expenses," except so far as they are herein accounted for.

Remarks are scattered through the Report which hint at, and may be said to anticipate part of the above Observations: but such remarks are quite insufficient, and do not seem calculated to remove the impressions which must be excited by the mere view of these tables, and the whole tenor of the Report. And when it is said "that an increasing Revenue, and other incidental causes, may have occasioned an increase of Law Expenses," it would have been but candid to have stated the proportion in which the Revenue has increased since the Union; and that the number of laws for regulating its collection, has more than doubled.

Upon the whole, it is to be lamented that the Commissioners of Enquiry should not have availed themselves of the opportunities and powers which they had, to discover the entire truth upon the subjects of their Report: the mistakes and errors into which they have fallen, would have been avoided had they fully examined the Solicitors or Counsel to the Revenue, or the Law Officers, or the Commissioners of Customs and Excise, or the many persons who could have given them information; or had they called for explanation, upon what appeared to them to require it; but unfortunately, the character and object of their Enquiry has been accusation. They have stated as facts, and with a view to criminate, what appears to be unfounded conjecture, and the consequence is, that a Report has been made, the direct tendency of which is to mislead the Government, and deceive the Public.

Wm. Savin.
Charles Bushe.
C. M. Ormsby.
H. D. Grady.

APPENDIX.

A.

Appendix for year ending 5th January 1804.

	£	s.	d.	£	s.	d.
To amount of Revenue Law Expenses, in year ending 5th January 1804, as stated by 8th Report - - - -	14,036	7	—			
- - - to be added as transferred from year ending 5th January 1805, per Appendix B. - - - -	825	11	8			
- - - to be also added, being the sums paid to the Solicitor and six practical officers, for attending upwards of six months in London on the Chancellor of the Exchequer, to assist in framing Revenue Bills, as appears in the Account of Incidents in that year, though not charged under the head of Law Expenses - -	4,945	11	0½			
Total - - -				19,805	9	10½

By amount to be deducted altogether from said total sum:

	£	s.	d.
<i>Exchequer.</i> { The amount of the English Agents Disbursements for British States - -	205	13	1
{ The amount of the Salaries of the Commissioners of Appeals -	345	17	6
{ - - D ^r - - D ^r - - Messrs. Walker and Edwards - -	100	—	—
{ - - D ^r - - D ^r Sub-Commissioners -	243	9	7
<i>Customs.</i> { The amount of Fees to the Chancellor of the Exchequer, for sealing green-wax process - - - - -	187	7	5
	1,081	7	7

By amount to be transferred from this year to the year ending 5th January 1803:

The amount of the Prime Serjeant's Fees, for business done in 1802 -	15	—	6
- D ^r - - D ^r - Solicitor General's D ^r for D ^r -	39	11	9
- D ^r - - D ^r - Senior Counsel's D ^r for D ^r -	145	15	9
The amount of the Prime Serjeant's Fees, from 5th July to 5th December 1802 -	28	8	9
- - D ^r - - Mr. Justice Osborne's (late Coun- sel) Fees for business done in 1801 -	25	—	6
- - D ^r - - D ^r - - D ^r - - D ^r -	444	15	3
	698	11	6
	1,781	—	1
Expenses of year ending 5th January 1804 - - -	£	18,014	9 9½

B.

Appendix for the year ending 5th January 1805.

To amount of Revenue Law Expenses in the year ending 5th January 1805, as stated by the 8th Report	£	s.	d.	£	s.	d.
- - - to be added, being the costs of J. Edwards, Solicitor, for the year 1804, as transferred per Appendix D	10,786	13	10			
- - - to be also added, as transferred from year ending 5th January 1806, per Appendix C.	363	8	6½			
Total	4,071	18	—	15,402	—	4½
By amount to be deducted altogether from said total Sum :						
A bill of costs paid to the executors of Benjamin Hayes, a local Agent	£	s.	d.	£	s.	d.
	390	14	1½	390	14	1½
By amount to be transferred from this year to the year ending 5th January 1804.						
Paid to John Edwards, Solicitor, for business done in 1803	£	s.	d.			
- - - Richard Waller, Solicitor, for acting during Mr. Edwards' absence in London on official business on the Chancery of the Exchequer in 1803	986	6	10			
The one half of S. Bradshaw's costs, being for business done in 1803	325	6	10			
The amount of the Attorney General's Fees for business done in 1803	107	—	—			
- - D ^r - - - Solicitor General's D ^r - D ^r	108	18	6			
- - D ^r - - - Junior Counsel's D ^r - D ^r	104	11	—			
	121	8	6	813	11	3
				1,114	5	9½
Expense of year ending 5th January 1805.	£			16,107	14	7

C.

Appendix for year ending 5th January 1806.

To amount of Revenue Law Expenses, in year ending 5th January 1806, as stated by the 8th Report	£	s.	d.	£	s.	d.
- - - to be added, as being the other half of Dunne and Netherville's Costs for 1806 and 1805, transferred per Appendix K.	23,018	5	6			
- - - to be also added, as transferred from the year ending 5th January 1807, per Appendix D.	424	14	4			
Total	5,665	11	7½	29,408	11	5½
By amount to be deducted altogether from said total Sum.						
The Expenses of preparing in that year an entire new code of Revenue Law, repealing all existing Statutes, as stated in Observations on the 8th Report	£	s.	d.			
	8,411	5	—	8,411	5	0
By amount to be transferred from this year to the year ending 5th January 1805.						
Paid to James Galfruth, local Agent, for business done in 1804						
- - John Bourne, D ^r - D ^r - D ^r	138	14	3			
- - Ditto, D ^r - D ^r - D ^r	57	6	3			
- - Solicitor General, his Fees for - D ^r	106	10	—			
- - Junior Counsel, his Fees for - D ^r	119	15	6			
- - Law Officers and Senior Counsel, for Money Bills of 1804	358	13	6			
- - John Edwards and Richard Waller, Solicitors, ditto	2,100	—	—			
- - Ditto, D ^r - D ^r	352	12	6			
- - Sir Charles Oursby, D ^r	361	5	0			
- - Ditto, D ^r - for business	353	12	6			
	120	11	6	4,071	18	—
				13,483	3	—
Expense of year ending 5th January 1806.	£			16,915	8	5½

D.

Appendix for the year ending 5th January 1807.

		£.	s.	d.	£.	s.	d.
To amount of Revenue Law Expenses, in year ending 5th January 1807, as stated by 5th Report - - - -		16,869	9	1½			
- - - to be added as transferred from year ending 5th January 1808, as per Appendix E. - - -		1,044	18	4½			
- - - to be also added, as being the half of Donne and Netterville's Bills of Costs, for business done in Excise and Custom Departments in 1806 and 1805, as per same Appendix - - - -		434	14	4			
TOTAL					18,347	1 10	
By amount to be deducted altogether from said total Sum.							
A Bill of Cost paid in this year to the Representatives of Richard Cooban Carr, who died in 1702, and whose Bill had been accumulating from 1793, and which is of course no part of the Expenses of any one of the five years stated by the Commissioners of Enquiry - - -		1,261	19	3½			
The Expenses of the second set of Regulation Bills, occasioned merely by the change of Administration - - - - -		682	10	—	1,944	9	3½
By amount to be transferred from this year to the year ending 5th January 1806.							
Excise.	Attorney General's Fees for business in 1805	613	2	—			
	Solicitor General's ditto - ditto - ditto	21	12	3			
	Senior Counsel's ditto - ditto - ditto	1,100	8	9			
	Ditto - - ditto for Revenue Bills ditto	1,444	2	6			
	Junior Counsel's ditto for business - ditto	691	3	—			
	John Bourne, Local Agent's Costs, ditto ditto	316	2	—½			
Customs.	James Gallbreath, ditto - ditto - ditto	31	—	—½			
	Damages and Costs in the case of Lahff v. Donnes - - - - -	248	2	5			
	Attorney General's Fees for business in 1805	343	9	3			
	Senior Counsel's ditto - ditto - ditto	525	5	3			
	Richard Waller's Costs - ditto - ditto	357	15	2			
	Ditto - - - ditto - ditto - ditto	189	15	—			
Customs.	James Gallbreath's ditto - ditto - ditto	34	13	8			
	John Bourne's - ditto - ditto - ditto	39	—	3½	5,075	11	7½
By amount to be transferred to the year previous to the year ending 5th January 1806.							
John Edwards, Solicitor of Excise's Costs, for business done in 1804 - - - - -		363	8	4½	363	8	4½
					8,475	9	5½
Expenses of the year ending 5th January 1807.		£.	10,165	18	4½		

(E.)

Appendix for the year ending 5th January 1808.

		£. s. d.	
To amount of Revenue Law Expenditure, in year ending 5th January 1808, as stated by 8th Report			27,714 17 11½
By amount to be deducted altogether from the same:		£. s. d.	£. s. d.
The Expenses of Prosecutions against Parishes for undecreed bills in that year, which, though paid by the Excise department in the first instance, are reimbursed when the Fines are levied, those Fines being no part of the Revenue, and the Proceedings for them being totally unconnected with Law Revenue Expenses (except as above-mentioned)		9,584 12 4½	
The Expenses of the second set of Regulation Bills in that year, occasioned by the change of Administration and dissolution of Parliament, which cannot be considered as an instance of increase in that year of Law Expenditure attributable to any defect of system		960 — —	10,344 12 4½
By amount to be transferred from this year to the year ending 5th January 1807.			
Excise.	Fees paid to Mr. Grady, in year ending 5th January 1808, for Business of the preceding year	573 13 9	
	Fees paid Solicitor General - ditto ditto	63 14 —	
	" " Mr. Sproule " " ditto ditto	37 15 —	
Customs.	" " Mr. Grady " " ditto ditto	34 1 6	
	" " Senior Counsel " ditto ditto	515 14 1½	
	" " Attorney General ditto ditto	20 — —	1,044 18 4½
By amount to be transferred to years previous to the year ending 5th January 1807.			
It appears by Appendix to the 8th Report, that this sum was paid in the year ending 5th January 1808, for Business done in 1806 and 1805, to Messrs. Dunne and Newcastle, local Agents		547 14 6	
The amount of a Bill of Costs paid to Messrs. Dunne and Newcastle, local Agents, for Business done in 1806 and 1805		201 14 2	849 8 8
Expense of the year ending 5th January 1808			15,475 18 6½

N. B. To this sum of £. 15,475. 18s. 6½d. must be added, whatever part of the Expenses of the year ending 5th January 1808 may have been paid in the year ending 5th January 1807.

THE Commissioners of Enquiry, with the same spirit of crimination which marks that part of their 8th Report relating to the LAW EXPENSES, have stated in page 101 of their 10th Report, "that in the district of Carlow, it appears that out of five informations exhibited for non-payment of duties against two Distillers, named Cassidy and Hinchy, three were actually brought to trial and dismissed, owing to the officers returns not having been verified by affidavits, as is requisite in order to charge the trader whenever he controverts any return in respect to the amount of duty charged against him, and the remaining two, being similarly circumstanced, were not proceeded on: that upon this occasion, one of the Board's Counsel attended: and that had the Solicitor informed himself of the circumstances of these cases, before measures had been taken for bringing the informations to trial, he would have discovered the defect of the evidence, and the expenses incurred by these proceedings would have been avoided."—From the tenor of this statement, it is evident that the Commissioners of Enquiry themselves have not taken much pains to be informed, when they allege that the informations alluded to, were exhibited in the district of Carlow, there being no such Excise district in Ireland. The informations were filed in the district of Naas, and were tried in that town, (which is within 10) and not in Carlow, (which is 40 miles from Dublin.) Of this fact the Commissioners might have been informed, by the mere inspection of the title of the informations: but which was more important, they might with very little trouble have enabled themselves to make a true representation of the facts and circumstances connected with the subject; had they done so, they would have found the following to be a true representation: Whilst these informations were depending at the Excise Office of Naas, against Messrs. Cassidy and Hinchy, who were partners in the trade of distillers, and not distinct traders, as might be inferred from the statement of the Commissioners of Enquiry describing them as two distillers, an Inspector General of Excise applied to the Board for the assistance of one of their Counsel, not for the trial of those informations, but of others. Counsel, pursuant to the Board's order, attended at Naas, and during his attendance there, the Collector requested of him to assist in the prosecution of the informations against Messrs. Cassidy and Hinchy. These informations were correctly prepared under 66th and 67th sections of the 40th of the King, chapter 88: which Act does not require a verification of the officer, unless where the distiller objects to the officer's charge; but the officer's vouchers, upon which alone these informations could have been founded, did not contain any verification, and the informations corresponded with those vouchers; and inasmuch as the verification is only to be made after the distillers objection to the return, and no objection appearing to have been filed in the Collector's office; it must have been conceived that no objection had been made; and that if any such had been made, the Collector would have procured such verification previous to the time of filing these informations, for after that period no verification would have availed. Under these circumstances therefore, and at the additional expense of no more than two guineas, on each of these cases, to Counsel, he then proceeded on the trials; in the course of which, it came out on cross-examination, that the distiller, in certain letters written by him to the Collector, including remittances for duties, had stated what was considered by Counsel for the Crown to amount to an objection to the return; and it clearly appearing, upon a full investigation of the merits of the case, that by payments made by the distillers on account of the duties, and by abatements of duty and allowances for short work and double charges occasioned by accidents (and of which the Crown until then could not have been apprized), that in justice no duty ought to have been recovered against the distillers; Counsel more readily yielded to the objection made at the trial, for want of a verification. Hence it is manifest, that in respect of these informations, and the trial thereof, nothing is imputable to the Board's Solicitor, who, as it appears, at his own suggestion, with a view of receiving the most accurate instructions respecting cases preparing for trial, made a special Report to the Board so long ago as the month of May 1805 on this subject; and which Report, by the Board's order, was printed and furnished to the several Collectors of Excise; and in which, amongst other instructions, as far as the same relate to the subject of these informations, is

the following, viz. "If the information required shall be for nonpayment of duty, a copy of the Officer's voucher, and of the return or entry of the trader (if any such shall have been made by him) should be transmitted; and if no entry or return, to state so." And it is equally obvious that Counsel was not brought from Dublin, as intimated by the Commissioners of Enquiry, for the purpose of attending those trials.

The Commissioners of Enquiry, in the same page of the Tenth Report, after adding to their observations in the Eighth Report, as to the want of economy in dealing out the public money under the head of Law Charges, state, that in the progress of their Enquiry they had additional reason to confirm the observations they formerly made on this branch of expenditure; and by way of supporting this their allegation, they state, that on examining Collectors' balances, they found cases of little legal difficulty submitted not only to the Board's two Counsel and Attorney General, but also to the Solicitor General; and that after unanimous opinions (as might be expected from the nature of the cases, upon which no difference of sentiment could exist) had been received, they found to their surprise the same identical cases and opinions in a few months afterwards laid before two other gentlemen, upon their succeeding to the offices of Attorney General and Board's first Counsel; and further state, that they have given some of those cases in their Appendix to their Tenth Report. Had the Commissioners of Enquiry taken the trouble of examining the Solicitors of the Revenue Boards, it is presumed they would have abstained from making a charge in this instance of a waste of the public money. The fact is, that under an express order from the Lords of the Treasury, dated the 31st of July 1806, the two Boards were directed to cause enquiry to be made into, and report the balances due by, the several deceased and dismissed Collectors of the Revenue under their management, and whether any and which of said balances appear irrecoverable on account of the insolvency of such Collectors and their Sureties; and in cases where the parties shall appear solvent, but where the recovery of the balances might be doubtful on account of legal difficulties existing, that the opinions of the Attorney and Solicitor General and their Counsel be taken (if such opinions had not already been had) as to the likelihood of recovering such debts, and whether, under the circumstances of such cases, it would be expedient or advisable to incur the expense of proceeding against the parties. Pursuant to this order, out of a great number of cases, eight only were selected by the Solicitor of Excise, and three by the Solicitor of Customs, for the purpose of obtaining the opinions required. Shortly after these opinions were taken, a change occurred in the law department by the appointment of the present Attorney General and the first Counsel, it was therefore deemed proper to have their opinions as to the expediency of adopting those given by the former Counsel, as those opinions on the eleven cases were as to eight, that balances to amount of £.12,529. 14s. 10½d. should be given up; and as to three, that proceedings should be taken to have the opinion of the Attorney General and Board's Counsel before these balances should be finally abandoned; and as to the proceedings to be taken, which must be conducted by and in the name of the Attorney General, it is deemed not only proper but necessary that his identical concurrence should be had; and notwithstanding the observation of the Commissioners of Enquiry as to the impossibility of any difference in opinion, it did occur that in one of those cases there was a difference in the opinion of the former and the present Attorney General, the latter advising that proceedings should not be taken in such case; but the Commissioners of Enquiry have thought proper to suppress this case, setting forth only those which might give colour to their imputation, and even those they admit are not connected with the subject of their Report.

Upon the whole therefore, with reference to our Observations on the 8th Report, we have reason to assert, that the direct tendency of this Report is, again to mislead the Government, and deceive the Public.

Wm. Saurin.
Charles Burke.
C. M. Ormsby.
H. D. Grady.